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MAY 05 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re Application of
Joseph KNOERLE, et al.
Application No. 09/383,145
Filed: August 26, 1999
For: METHOD AND SYSTEM FOR
PRESERVING SERVICE NODE RESOURCES
AND REDUCING CLIPPING EFFECT

**DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT**

This is in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance filed February 11, 2004.

The application is held as abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed August 11, 2003. A Notice of Abandonment was mailed February 4, 2004.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.


A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the Patent and Trademark Office.

The petitioner has not made a sufficient showing of non-receipt of the Office action in accordance with the requirements set forth above. The petition does not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record must be referenced in practitioner's statement. Petitioner states that the address was changed prior to the mailing of the Notice of Allowance. The change of address was entered into the file prior to the mailing of the Notice. It is noted that the application file is not associated with a customer number.

Accordingly, the petition is **DENIED**.

Should petitioner desire reconsideration, he or she should supplement this petition with a statement and docket records as outlined above.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and should provide the docket records and supplemental statement referencing the docket records as outlined above.



Kenneth A. Wieder
Special Program Examiner
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Communications